

Remarks

Claims 1, 2, 4-9, and 18 have been amended. The objection to the drawings and specification and the rejection under 35 U.S.C. § 112 all pertain to the language of claim 4. Claim 4 has therefore been amended and it is believed that the source of the objections and rejection has been addressed.

The drawings and specification have been objected to and claim 4 has been rejected as being indefinite. The Examiner states that the drawings don't support the "a point near a point" portion of claim 4 and that the specification fails to provide antecedent basis for the same portion of the claim. The rejection under 35 USC 112 is also regarding the "a point near a point" portion of claim 4. Applicant submits that claim 4, as amended, is supported by the specification and the drawings for the following reasons.

The elected fifth embodiment is shown in Figures 13-15 and the non-elected seventh embodiment is shown in Figures 19-25. The seventh embodiment, however, contains the same basic structure as the fifth embodiment, with the exception of the water-conserving tank and the variation of shelf width and slope. (Page 21, lines 17-21). This means that the shape of the bowl and the location of the water spouting sections are the same for the two embodiments. Fig. 13 shows the general location of the water spouting sections 11 and 12. The specific location of the spouting sections is shown in Fig. 21 and described from page 22, line 19 to page 23, line 10. As shown in Fig. 21, water spouting section 11 is located at point #0 and water spouting section 12 is located at point #13. The shape of the bowl is substantially elliptical with laterally opposing sides having a relatively larger radius (#17 to #4 and #8 to #12) and the fore-aft opposing sides having a relatively smaller radius (#4 to #8 and #12 to #17). The points where the radius shifts from smaller to larger and larger to smaller are #17 and #12, respectively. The water spouting sections 11 and 12 are therefore at a point near a point where the radius changes from either larger to smaller or smaller to larger. The combination of Figures 13 and 21 therefore clearly shows the shape of the bowl and the location of the water spouting sections in the fifth embodiment.

Applicant therefore respectfully submits that the drawings show every feature of the invention specified in the amended claims and that the specification provides proper antecedent basis of the claimed subject matter. Applicant also submits that claim 4 is definite and does not fail to particularly point out and distinctly claim the subject matter regarded as the invention. Applicant therefore requests the withdrawal of the objections to the drawing and specification and the rejection under 35 U.S.S. § 112 to claim 4.

Claims 1-5, 8, 10, 11, and 18 have been rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 2,158,362 to Groeniger, herein after "*Groeniger*." Applicant has amended claims 1, 4, and 18 and respectfully requests reconsideration in view of the following remarks.

Claim 1, as amended, describes a flush toilet having a first and a second water channel and a first and a second water spout, the water spouts spouting cleansing water onto the shelf of the bowl to form a vortex. The water channels each forming their corresponding water spout at their end. This is very different from *Groeniger*, which contains numerous rim openings 28 that are all supplied by a single, continuous rim channel that travels the entire circumference of the rim. The invention of claim 1 allows for only two spouts to clean the entire bowl instead of numerous rim openings placed around the entire rim.

The Examiner states that numeral 32a in *Groeniger* represents the first and second water spouts and that numeral 32 represents the water channels. *Groeniger* states that 32a is an intake that communicates with the main water channel 22. These intakes communicate with the channels 32, which terminate in outflow ports 32b that direct a jet upwardly of the upflow trap leg 15 (emphasis added). (Col. 4, lines 45-50). Applicant therefore submits that the intakes 32a are not the same as the first and second water spouts of the invention of claim 1. The intakes do not spout water onto an inwardly projecting shelf of the bowl, but rather they receive water from the main water channel. The water from the main water channel then flows through the channels 32 and eventually is formed into a jet at the outflow ports 32b, which do not contact a shelf of the toilet. In the attached Exhibit A, the differences between the two inventions are illustrated with elements pertaining to the rim portion of the toilets in red and elements pertaining to the jet portion in blue.

Applicant also maintains that *Groeniger* does not teach the shelf of the present invention. As described in Exhibit A of the reply to the Office Action of December 11, 2008, a shelf is defined as, "A flat, usually rectangular structure composed of a rigid material, such as wood, glass, ore metal, fixed at right angles to a wall or other vertical surface and used to hold or store objects," or "Something, such as a projecting ledge of rock or a balcony, that resembles such a structure." The "shelf" indicated by the Examiner in *Groeniger* is a vertical surface, making it impossible to be considered a shelf according the definition, since a vertical surface cannot be fixed anywhere near a right angle to "a wall or other vertical surface." (emphasis added).

Accordingly, Applicant respectfully submits that claim 1 is not anticipated by *Groeniger* and requests the withdrawal of the rejection under 35 U.S.C. § 102(b).

Claims 2-5, 8, 10, and 11 are dependent from claim 1 and are patentable for at least the same reasons as claim 1, as well as those listed below. Claim 18 has similar limitations to claims 1 and 5 and is therefore patentable for at least the same reasons as claims 1 and 5.

Claim 4, as amended, describes a flush toilet with two water spouts, one on each side of the fore-aft center axis. Each of the water spouts forms a single outlet for directing cleansing water onto the shelf to flow about the bowl in the direction of the vortex. In the invention of claim 4, the water spouts are in specific locations where the radius of curvature shifts. *Groeniger* teaches a plurality of rim openings 28 that release water onto the vertical surface of the bowl wall. To better illustrate the position of the water spouts and the curvature of the bowl, Exhibit B is attached.

Accordingly, Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 102(b) of claims 2-5, 8, 10, 11, and 18.

Claims 6, 7, 9, and 12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Groeniger*. Claims 6, 7, 9, and 12 are dependent on amended claim 1 and as described above, *Groeniger* does not teach the limitations of amended claim 1. The inventions of claim 6, 7, 9, and 12 would therefore not be obvious in light of *Groeniger*. Accordingly,

Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 103(a) of claims 6, 7, 9, and 12.

Reconsideration and reexamination of the application is respectfully requested. Applicant has made a genuine effort to respond to each of the Examiner's objections and rejections in advancing the prosecution of this case. Applicant believes that all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested. If any additional issues need to be resolved, the Examiner is requested to telephone the undersigned at his convenience.

The Commissioner is hereby authorized to charge any fees or credit any overpayments as a result of the filing of this paper to Deposit Account No. 02-3978.

Respectfully submitted,

Kenichi Nakamura

By /John E. Nemazi
John E. Nemazi
Reg. No.
Attorney/Agent for Applicant

Date: December 1, 2008

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351